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PADDINGTON TOWN HALL, SYDNEY

FRIDAY 23 MAY 2003

**CEREMONY FOR THE PRESENTATION OF CENTENARY OF
FEDERATION MEDALS**

A CAUSE FOR CELEBRATION AND REDEDICATION

The Hon Justice Michael Kirby AC CMG

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RECOLLECTIONS OF TIMES PAST

I congratulate Peter King MP and Councillor Fiona Sinclair King for arranging this notable occasion in this wonderful hall. It is right that the citizens who have been awarded the Centenary of Federation Medal should receive their warrant and decoration in the presence of their spouses, partners, families and friends. It is a whole lot better to receive the medal this way than the way I received mine. It came through the post. There was no fanfare or applause. I even wondered what the package contained.

* Text on which was based the address on the occasion of the ceremony organised by Mr Peter King MP, Federal Member for Wentworth.

** Justice of the High Court of Australia.

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Today the recipients will be applauded, and properly so, for their varied service to the Commonwealth and its people. As a Justice of the High Court of Australia, and as a citizen, I am proud to take part in the ceremony.

Do you remember the first time you received a medal or an award? I can remember it vividly. I was not much older than the youngest student of the Bronte Public School whose choir led us in the National Anthem. It was about August 1945. I was a pupil at the North Strathfield Public School in Sydney. To celebrate victory in the War in the Pacific, every Australian schoolchild received a "VP" Day medal. This piece of bronze marked the end of the War in which our armed services, and those of our allies, had struggled and sacrificed to save our freedom.

I was given the medal by my teacher at the time, Miss Pontifex. Soon after, the schoolchildren were lined up on Concord Road to see the Governor-General, HRH the Duke of Gloucester, pass by on his way to the Concord Repatriation General Hospital. We waved flags - mostly the Union Jack - and wore our medals.

For all of us, including those who receive a medal today, our minds go back to such far-off times. I can recall marching into school to the tune of the "Teddy Bears' Picnic". I can remember Miss Pontifex handing out departmental texts with the overpowering

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smell of glossy paper. This was something new. In wartime, gloss was out.

On a day like this, each recipient remembers his or her mother, father, siblings, family. The teachers and schoolmates. Those who gave precious early instruction in religion or otherwise taught us our philosophies of life. As we come onto this stage, all of us bring precious memories and we are accompanied in spirit by a hundred or of others who share this moment.

At about the time I received my medal, marking the end of the War, I began to receive other awards. I strove to win them and to be worthy of them. Miss Pontifex knew, in the ways of those times, how to encourage me. For particularly good and neat work, I received an imprint on my hand or forehead of a red stamp of the Crown. It signified a tiny success and encouraged me to try still harder. That Crown burrowed away into my conscious and subconscious mind. Some might say that it helps explain the link of loyalty that I still feel for the values that Australians celebrated in those days. The Crown was a symbol of all the people and of service beyond self.

Not long after the events of which I speak I also learned another, different, lesson concerning our federation. It was a lesson of the strengths of the institutions of Australia. At about that time my paternal grandmother had remarried. Her new husband had been

born a New Zealander. He fought with the original ANZACS at Gallipoli in 1915. After that fateful battle, he fought on the Somme. He was a brave soldier and was awarded the Military Cross. It was conferred on him at Buckingham Palace by King George V.

My Uncle Jack, as I called him, came back from the War and lived in Australia. He became disillusioned with the poverty of the Great Depression. He threw away his medals. He became a communist. When he joined our family, I realised that a finer and more idealistic man one could not wish to know. This fact taught me to be suspicious of public campaigns and demonisation of minorities.

At the time, many Australians were very fearful of communists. They had reason to be. Legislation was passed by our Federal Parliament to ban the Communist Party and to withdraw fundamental civil rights from communists. The legislation, if enforced, would have had large consequences for my Uncle Jack.

It was at that time that I first heard of the court in which I now have the honour to serve: the High Court of Australia. The validity of the federal legislation was challenged in the High Court. By six Justices to one, it was struck down as unconstitutional. In effect, the Court held that, in our fair land, the Parliament could punish people for what they did and for anti-social acts. But for their beliefs and opinions, however foolish, there was no power to

pass such a law. A great cloud lifted from the life of my new uncle. I was a boy of twelve. But already I knew something of how our Parliament operated and how a court protected the citizens and upheld the Constitution. It was a lesson that I have never forgotten.

THREE CENTURIES OF MODERN AUSTRALIA

We are blessed in Australia with strong institutions. With elected parliaments and local government bodies. With responsible ministries. With uncorrupted officials. With independent courts. There is something grand (and I know the politicians present will forgive me for saying this) to live in a country that, from time to time, changes its government. On one day the official cars are there for one team. On the next day they serve another. And all this is done peacefully by the vote of the people, accurately and professionally counted.

Of course, parliaments sometimes make mistakes. I know this. But generally, given time, they work their way democratically to the just and fair solutions that are comfortable for the people of Australia. We have seen this many times over the century of federation. This week, in the New South Wales Parliament, we have witnessed another instance of democracy in action to ensure true equality of all people before the law.

Of course, there is occasional corruption. But by the standards of the world, it is extremely rare. It is usually discovered quickly and punished. Our courts are truly independent. They make their decisions according to the law and the conscience of the judges and magistrates. In Australia, judges are not told by ministers or anyone else how to decide cases. The Communist Party case is a vivid illustration of this.

The building of our institutions preceded the establishment of the Federal Constitution in 1901. Indeed, those institutions grew out of the period of colonial settlement that followed the arrival of the British fleet in 1788. Truly, we can divide the modern history of Australia into three parts.

The first was the colonial century. This historic hall at Paddington in Sydney is a symbol of that time. How confident and sure of their destiny the founders of Australia were. They built the courthouses, town halls, post offices, railways. They laid down the infrastructure of a continent. And then they met together to create the Constitution under which we still live, protected by the rule of law. It is fitting that the foundation-stone of this hall was laid by Sir Henry Parkes, often called the Father of Federation. We must recapture the confidence and optimism of those times but translate them into new and juster times.

The second century, after federation, saw the development of a national parliament and government, of the States and their parliaments and governments, of local government and of the integrated system of courts. Of a national economy, as envisaged by the Constitution, and of the businesses, arts and culture, the armed forces and civil groups that grew up in the new nation.

And what of the third century? There is no doubt that the challenges for our institutions will be even greater. The most important opinion I have read this year was written not by a judge but by Sir Martin Rees, Britain's Astronomer Royal and Royal Society Professor at Cambridge University for a decade. Writing in the *New Scientist* (May 3, 2003, p 30 "The Final Countdown"), this distinguished scientist makes the point that we now "face some difficult decisions" requiring us to map out "the safest and most responsible way to develop them further". He concludes that "humanity is more at risk than at any other phase in its history", and that "this is a critical time". He says that "our future as a species may depend on the choices we make in the next hundred years".

According to Rees, the dangers grow out of particular developments of science, when unsupervised by human authority reflecting human values. He instances the creation of "quark matter" at laboratories in the United States and Geneva - producing something that may only have existed in the first microsecond of cosmic history. Rees also refers to the likely future advances of

"nanobots", robots created with artificial intelligence of infinitely greater power than the human mind. He mentions developments of biotechnology and the safety and ethical spin-offs of recent discoveries. Obviously, these include the jumping of viruses from other species to human beings because of experiments inadequately controlled. According to Rees, in the future there may be no need of Al Qaeda type terrorists to trigger events on a scale of threatening proportions: "Just a fanatic or social misfit with the mindset of those who now design computer viruses".

I was in Paris last week for a meeting of the International Bioethics Committee. We were invited to the Elysée Palace for a working session with President Jacques Chirac. In my faltering French, I congratulated him for his interest in the interface of science and technology. In Australia in its third century, we will need politicians with those interests. That century belongs to science and technology. Their dilemmas will test our society and its institutions; indeed they will test the world and our species.

A MORE PERFECT UNION

I have not pretended that the history of the first century of Australian federation, celebrated by these medals, was one of unalloyed achievements. We now realise that many wrongs were done, including by law, to the Aboriginal and other indigenous peoples of Australia. Yet in recent decades, the parliaments, federal,

state and territory and the courts since the *Mabo* decision, have played a positive part in responding to the need for reconciliation with the original peoples of this continent and their descendants. The process will continue into the third century.

There were many wrongs to women and much discrimination against them. There still is. Yet laws have been passed and opportunities have opened which show the way of the future for all people: men and women, truly equal in our Commonwealth.

In the first century of federation, it was not easy to be an Asian Australian or an Australian of other ethnicities or a person of colour. The law at first reinforced the White Australia policy. It devised the devilish dictation test to keep out of this country so-called coloured people. Yet, in a remarkably short time, White Australia has been swept away. We now rejoice in a multicultural society. It is evident in the recipients of the medals awarded in this ceremony. It is an extraordinary change in a foundational principle of our nation. Few countries have changed themselves in such a radical way so quickly and so peacefully.

There have been other wrongs to other citizens in the last century. To Australians of minority religions. To Australians who are homosexual. To the old and the young. Yet gradually here, too, we are repairing the wrongs. Eventually we will make things right.

Australia is a self-critical country. Even on a happy occasion, when we consider our achievements, we reflect also on our failures. And all of us resolve to do more to right wrongs and to bring equal justice to everyone.

THE UNKNOWN WINNERS

So when the recipients come forward, they do so as citizens of a country undergoing renewal. They bring with them the names and memories of those many who helped them to this day. Each one of us, as we step forward, could name many, many others who deserve the award as much as, if not more than, we do. We know their names. In my case, I would like to name two.

The first is my sister, Diana. She is a nursing sister at a leading Sydney teaching hospital. She works in oncology. When my mother was desperately ill, indeed dying, I went into her frightening world for a week. I saw the loving-kindness that my sister's colleagues exhibit day by busy day to people who are desperately ill. It was a humbling experience. Diana receives no medal today. But in all truth, she deserves one, at least as much as I.

And I would also name my partner, Johan van Vloten, who is here with me at this ceremony. He is an *ANKALI*. As a volunteer, he looks after people who are living with HIV/AIDS. It is not high profile work. Quite the contrary. He cooks meals. He cleans the

toilet bowl. He takes the dog for a walk. He is just there to talk, to help and to encourage. In Australia, there are millions of volunteers like Johan doing all kinds of activities for others freely. These are the unsung heroes of our nation. Each one of them deserves a medal. They are with us in spirit as we acknowledge today's recipients.

And so we gather on this autumn day, in a beautiful place, in the company of those dear to us to celebrate in this special way the blessings of our Commonwealth. We do so without proud boast or foolish pride. I will be glad to join Peter King in presenting the medals. It sure beats receiving them in the post.